

INDICTMENT FOR HEALTH CARE FRAUD

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A. **Medicare**: Medicare was a federally-funded health insurance program that paid for certain inpatient medical and home health services (“Part A”), outpatient medical services (“Part B”), and durable medical equipment provided to the elderly and to certain disabled persons.

B. The defendant, **DR. GREGORY KHOURY (hereinafter DR. KHOURY)**, was a licensed Medical Doctor specializing in psychiatry, with offices located in Gretna, Louisiana, in the Eastern District of Louisiana and, as such, was a Medicare “provider” authorized to submit bills for reimbursement for certain medical services to eligible Medicare beneficiaries. As a Medicare provider **DR. KHOURY** was assigned Provider No. 5M406 to bill the Medicare program for services provided to qualified Medicare beneficiaries, subject to the terms of his

provider agreement and Medicare criteria, rules, regulations and internal procedures.

- C. **TriCare**: TriCare was a federally-funded medical benefit program provided by the federal government to provide medical insurance benefits for active duty and retired uniformed services personnel, the spouses and children of active duty and retired uniformed services personnel, and the spouses and children of deceased active duty and retired uniformed services personnel.
- D. **Federal Employee Health Benefit Plans (FEHBP)**: FEHBP was a federally-funded health benefit program provided by the federal government for federal employees and retirees, as well as their spouses and dependent children. The FEHBP was administered by the U.S. Office of Personnel Management (OPM) who contracted with a number of different insurance plans, including, but not limited to, Blue Cross and Blue Shield (BCBS).
- E. **Blue Cross/Blue Shield (BCBS)**: In addition to being a provider for FEHBP, BCBS was a mutual insurance company (member-owned) health care benefit program licensed under the State of Louisiana to provide health insurance benefits to individuals and businesses in the State of Louisiana. **DR. KHOURY** was assigned Provider No. 50523 to bill BCBS for services provided to qualified beneficiaries, subject to the terms of his provider agreement and BCBS criteria, rules, regulations and internal procedures.
- F. **Travelers Insurance Company (Travelers)**: Travelers Insurance Company contracted with AIG to provide and administer claim service for workers'

compensation benefits, including medical benefits, to Louisiana workers injured on the job. AIG, meanwhile, was a mutual insurance company licensed under the State of Louisiana to provide workers' compensation benefits to individuals in the State of Louisiana.

G. **DR. KHOURY** submitted bills for medical services to Medicare, Tricare, FEHBP, Blue Cross and Travelers beneficiaries using an HCFA/CMS Form 1500, the recognized standard claim form in the health insurance industry. The completed form contained the date of service, the place of service, the Current Procedural Terminology (CPT) code, the name of the facility where the services were rendered, and the supplier of the service. **DR. KHOURY** was always the supplier of the services.

H. **Current Procedural Terminology (CPT):** The American Medical Association (AMA) assigned five-digit numerical codes to medical procedures performed by health care providers. The codes were known as Current Procedural Terminology (CPT) codes. The CPT codes, published annually by the AMA, set forth a "systematic listing and coding of procedures and services performed by physicians." Medicare, Tricare, FEHBP, BCBS, Travelers and other insurance companies established a "usual, customary and reasonable fee" for each service rendered, as described by its corresponding CPT code. Annual CPT code books contained multiple codes for Evaluation and Management (E&M) services provided by health care professionals. Codes were based upon the complexity of the service, the severity of the illness or injury, and the average amount of time

generally required to perform the service. The fees paid for each E&M service are commensurate with the amount of work required.

- I. CPT E&M Code 99215 was used to report the evaluation and management services provided in a physician's office to an established patient. In instances where 99215 was used by a physician, the patients' presenting problems were of moderate to high severity, and the physician typically spent 40 minutes face-to-face with the patient and/or family.
- J. CPT E&M Codes 99354 and 99355 were used when a physician provided prolonged services involving direct (face-to-face) patient contact that was beyond the usual service in an office setting. These services were reported in addition to other E&M services. Appropriate codes were to be selected for procedures performed in the care of the patient during this period. CPT E&M Code 99354 was used to report the first hour of prolonged service provided in an office on a given date or to report a total duration of prolonged service of 30-60 minutes on a given date. Prolonged service of less than 30 minutes total duration on a given date was not separately reported because the work involved was included in the total work of the E&M codes. E&M Code 99355 was an extension used to report each additional 30 minutes beyond the first hour or to report the final 15-30 minutes of prolonged service on a given date. Codes 99354 and 99355 were used to report the total duration of face-to-face time spent by a physician on a given date providing prolonged services, even if the time spent by the physician on that date was not continuous. Prolonged services of less than 15 minutes beyond the

first hour or less than 15 minutes beyond the final 30 minutes were not reported separately.

II. THE OBJECT OF THE SCHEME:

From about 1999 until June 2006, **DR. KHOURY** routinely billed Medicare, Tricare, FEHBP, Blue Cross and Travelers for (1) prolonged physician services for patients who were not present in the office (patient by proxy); and (2) prolonged physician services that were not actually rendered by **DR. KHOURY** or anyone on his staff because the patients were not present in the office for the total amount of time billed for the extensions. Pursuant to the scheme, the following false claims were submitted by Dr. Khoury:

DR. KHOURY submitted claims to Medicare in the amount of approximately \$600,402 for CPT Code 99354, for which he was paid \$103,104.30, and approximately \$2,078,232 for CPT Code 99355, for which he was paid \$570,320.57.

DR. KHOURY submitted claims to Tricare in the amount of approximately \$358,618 for CPT Code 99354, for which he was paid \$76,134.38, and approximately \$1,081,712 for CPT Code 99355, for which he was paid \$331,413.72.

DR. KHOURY submitted claims to BCBS in the amount of approximately \$182,962.95 for CPT Code 99354, for which he was paid \$18,285.72, and approximately \$1,114,142.61 for CPT Code 99355, for which he was paid \$173,439.45.

DR. KHOURY submitted claims to FEHBP in the amount of approximately \$28,314.00 for CPT Code 99354, for which he was paid \$6,557.00, and approximately \$145,904.00 for CPT Code 99355, for which he was paid \$71,121.60.

DR. KHOURY submitted claims to Travelers in the amount of approximately \$64,130.00 for CPT Code 99354, for which he was paid \$1,539.00, and approximately \$163,680.00 for CPT Code 99355, for which he was paid \$5,702.40.

III. HEALTH CARE FRAUD:

Beginning in or about 1999, and continuing until June 2006, in the Eastern District of Louisiana and elsewhere, the defendant, **DR. GREGORY KHOURY**, did knowingly and willfully devise and attempt to devise a scheme and artifice to defraud health care benefit programs, to-wit: Medicare, Tricare, FEHBP, Blue Cross and Travelers, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money owned by, and under the custody and control of, Medicare, Tricare, FEHBP, BCBS and Travelers, in connection with the delivery of, and payment for, health care benefits and services.

A. Patients by Proxy

It was part of the scheme and artifice to defraud that **DR. KHOURY** billed Medicare, Tricare, Blue Cross, FEHBP and Travelers for CPT Codes 99215, 99354 and 99355 for patients who were not physically present in his office. Instead, **DR. KHOURY** discussed the absent patient's condition with a family member or other related or interested person.

It was further part of the scheme and artifice to defraud that when **DR. KHOURY** met with an interested person or family member instead of the patient, he falsely billed Medicare, Tricare, Blue Cross, FEHBP and Travelers for services he claimed to have performed for both the absent patient and the interested person or family member on the same date of service. **DR. KHOURY** submitted fraudulent claims for CPT Codes 99215, 99354 and 99355 as if those services had been rendered to the absent patient.

B. Prolonged Services not Provided

It was further part of the scheme and artifice to defraud that **DR. KHOURY** billed Medicare, Tricare, Blue Cross, FEHBP and Travelers for prolonged physician services (CPT Code 99354 and 99355) that were not actually rendered by **DR. KHOURY** or anyone on his staff.

It was further part of the scheme to defraud that **DR. KHOURY** falsely billed CPT Code 99354 and 99355 on dates when a patient was not present in his office as a continuation of services that were being rendered to the patients when they were present in the office.

IV. EXECUTIONS:

On or about the dates listed below, in order to execute and attempt to execute the above-described scheme and artifice to defraud, the defendant, **DR. GREGORY KHOURY**, submitted and caused to be submitted false and fraudulent claims to health care benefit programs, identified by the below listed claim numbers, requesting reimbursement as indicated:

Count	Date of Claim	Patient Name	Health Care Benefit Program	Claim Number	Date of Services	Number of Services Claimed Identified by CPT Code			
						99215	99354	99355	Other
1	04/25/05	TyTo	Tricare	5122F1362	07/15/04	1	1	9	
2	05/02/05	PhPu	Tricare	5122X1D4Z	07/15/04		1	12	
3	12/06/04	MaHe	BCBS	72863XX	08/24/04	1	1	10	
4	11/23/04	PhPu	Tricare	4348S0011	09/02/04		1	9	
5	11/19/04	MaTo	Medicare	1104324001550	10/04/04		1	7	
6	11/19/04	GeTo	Medicare	1104324001050	10/04/04	1	1	3	
7	11/17/04	BrTo	Tricare	43480B122	10/04/04	1	1	5	
8	11/17/04	TyTo	Tricare	43480B228	10/04/04	1	1	5	
9	12/06/04	ClPh	BCBS	68324XX	11/01/04		1	10	

Count	Date of Claim	Patient Name	Health Care Benefit Program	Claim Number	Date of Services	Number of Services Claimed Identified by CPT Code			
						99215	99354	99355	Other
10	12/06/04	ClPh	BCBS	68324XX	11/08/04		1	10	
11	12/31/04	BrTo	Tricare	4366X0NKC	12/07/04	1	1	6	
12	12/31/04	BrTo	Tricare	4366X0NKC	12/09/04	1			
13	12/31/04	BrTo	Tricare	4366X0NKD	12/09/04		1	7	
14	12/31/04	TyTo	Tricare	4366x0NKH	12/09/04	1	1	8	
15	12/21/04	GeTo	Medicare	1104356002360	12/09/04		1	10	
16	12/21/04	MaTo	Medicare	1104356002560	12/09/04	1			
17	12/21/04	MaTo	Medicare	1104356002570	12/09/04		1	6	
18	01/25/05	AlHo	BCBS	72337XX	01/12/05	1	1	13	
19	01/25/05	AlHo	BCBS	69224XX	01/13/05	1	1	9	
20	1/21/05	JaPa	Travelers	DEM5667/00855 83411	01/13/05		1	19	
21	02/23/05	BrTo	Tricare	5054X1CYG	02/03/05	1	1	5	
22	2/23/05	MeHu	FEHBP	8774990289	02/05/05	1	1	14	
23	02/23/05	MeHu	FEHBP	8775000	02/05/05				90809
24	02/23/05	MoPe	Medicare	1105054002220	02/05/05	1	1	10	
25	02/23/05	PhPu	Tricare	5054X1CYM	02/07/05		1	14	
26	03/16/05	ClPh	BCBS	68378XX	02/21/05		1	14	
27	03/16/05	AlHo	BCBS	70787XX	02/21/05	1	1	15	
28	03/16/05	BeMa	BCBS	71690XX	02/21/05	1	1	13	
29	03/16/05	MeHu	FEHBP	8711750289	03/07/05	1	1	12	
30	03/16/05	JiHu	FEHBP	8711720289	03/07/05	1	1	16	
31	03/16/05	TyTo	Tricare	5075X1JYD	03/07/05	1	1	14	
32	03/16/05	MeHu	FEHBP	8711750289	03/08/05	1	1		
33	03/16/05	MeHu	FEHBP	8711760289	03/08/05			16	
34	03/16/05	MaTo	Medicare	531105075003240	03/08/05	1	1	10	
35	03/16/05	MeHu	FEHBP	8777140289	03/09/05	1	1	14	

Count	Date of Claim	Patient Name	Health Care Benefit Program	Claim Number	Date of Services	Number of Services Claimed Identified by CPT Code			
						99215	99354	99355	Other
36	02/22/06	DaSh	BCBS	XXXXXXX	03/09/05	1	1	16	
37	04/12/05	PhPu	Tricare	5102X1DD3	03/14/05		1	13	
38	04/12/05	TyTo	Tricare	5102X1DD2	03/14/05	1	1	6	
39	04/13/05	GeTo	Medicare	1105103003100	03/14/05	1	1	10	
40	04/13/05	MaTo	Medicare	11051030033170	03/18/05	1	1	9	
41	03/21/05	TyTo	Tricare	5102X1DD2	03/18/05	1	1	12	
42	04/19/05	EvBi	Medicare	531105109002840	03/18/05	1	1	9	90847
43	04/13/05	JuBo	Medicare	531105103003200	03/18/05	1	1	9	90847
44	04/28/05	ClPh	BCBS	74928XX	04/11/05		1	9	
45	06/24/05	ClPh	BCBS	68342XX	04/18/05		1	13	
46	06/24/05	ClPh	BCBS	68342XX	05/02/05		1	11	
47	06/24/05	ClPh	BCBS	68342XX	05/09/05		1	14	
48	06/02/05	PhPu	Tricare	5153X1N15	05/31/05		1	8	

All in violation of Title 18, United States Code, Sections 1347 and 2.

ASSET FORFEITURE

- I. The allegations contained in Counts 1 through 48 are hereby realleged and incorporated by reference for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Section 982.
- II. As a result of the offenses alleged in Counts 1 through 48, the defendant **DR. GREGORY KHOURY** shall forfeit to the United States pursuant to Title 18, United States Code, Section 982(a)(7), any and all property, real and personal, that constitutes or is derived directly or indirectly, from gross proceeds traceable to the commission of the offenses as a

result of the violations of Title 18, United States Code, Section 1347, which are Federal Health Care offenses within the meaning of Title 18, United States Code, Section 24, including but not limited to:

\$1,357,618.14 in United States Currency and all interest and proceeds traceable thereto, in that such sum in aggregate represents the amount of proceeds obtained as a result of the aforestated offenses or is traceable to such property.

III. If any of the above-described forfeited property, as a result of any act or omission of the defendant,

1. cannot be located upon the exercise of due diligence;
2. has been transferred, sold to, or deposited with, a third person;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 18, United States Code, Section 982(b) to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property;

All in violation of Title 18, United States Code, Section 982(a).

A TRUE BILL:

FOREPERSON

JIM LETTEN (8514)
UNITED STATES ATTORNEY

JAN MASELLI MANN (9020)
Chief, Criminal Division
Assistant United States Attorney

PATRICE HARRIS SULLIVAN (14987)
Assistant United States Attorney

JORDAN GINSBERG (IL.Bar Roll No. 6282956)
Assistant United States Attorney

New Orleans, Louisiana
November 12, 2005